

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

WILLIAM PAUL SHAVER, §
Applicant, §
§
v. § No. 4:09-CV-720-Y
§
REBECCA TAMEZ, Warden §
Respondent. §

RESPONDENT'S MOTION AND BRIEF TO PLACE ATTACHMENTS 1, 3, AND 4 UNDER SEAL

Respondent Rebecca Tamez, Warden, Warden, FCI Fort Worth, by and through the United States Attorney for the Northern District of Texas, moves this Court to place under seal in this case the documents that Respondent has included as Attachments 1, 3, and 4 to Exhibit A, the Declaration of Paul Irby, in Respondent's Appendix filed in support of its Combined Motion to Dismiss and Response to William Paul Shaver's Petition for Writ of Habeas Corpus.

1. The attachments to Exhibit A, included in Respondent's Appendix, are Excerpts from Petitioner's Presentence Investigation Report (See Attachment 1); Prisoner Tracking System Form (See Attachment 3); and Judgement in a Criminal Case (See Attachment 4). These documents have been submitted under seal for *in camera* inspection. Respondent asks that the Court approve sealing Attachments 1, 3, and 4, and upon such approval, Respondent shall file Attachments 1, 3, and 4 under seal with the District Clerk's Office.

2. The basis for filing these documents under seal is that they are ones that the Bureau of Prisons prohibits prisoners from possessing or keeping in prison for their own safety, and that contain private information regarding Petitioner. BOP Program Statement 1351.05 (12)(a)(2)(d)(1) (Release of Information) states, in pertinent part:

For safety and security reasons, inmates are prohibited from obtaining or possessing photocopies of their PSRs [presentence investigation reports], SORs, or other equivalent non-U.S. Code sentencing documents...Inmates violating this provision are subject to disciplinary action.

PSRs and SORs received by mail will be treated as contraband...

According to the Program Statement, the rationale for prohibiting prisoners from possessing their PSR is threefold:

Many PSRs and SORs contain information regarding the inmates' government assistance, financial resources, community affiliations, etc.

The Bureau has documented an emerging problem where inmates pressure other inmates for a copy of their PSRs and SORs to learn if they are informants, gang members, have financial resources, etc.

Inmates who refuse to provide the documents are threatened, assaulted, and/or seek protective custody. Likewise, inmates providing PSRs and SORs containing harmful information are faced with the same risks of harm.

See App. B at 26-27, Excerpts of Program Statement 1351.05 (12)(a)(2)(d)(1). Thus, the documents are not ones that Petitioner is authorized to possess in prison, for reasons of his own safety. By including Attachments 1, 3, and 4 in the copy sent to Petitioner, Respondent would be violating the above-referenced BOP Program Statement.

Moreover, by including Attachments 1, 3, and 4 in the District Clerk's file, open to the public, the same end result, of Petitioner obtaining a copy, might be facilitated.

3. For these reasons, Respondent respectfully moves this Court to place Attachments 1, 3, and 4 to Exhibit A in her Appendix under seal in this matter, for Petitioner's own safety.

Respectfully submitted,

JAMES T. JACKS
UNITED STATES ATTORNEY

s/ Amber M. Rogers

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing has been made this 22nd day of February 2010 by United States Mail certified number 7008 2810 0000 6292 7387, return receipt requested, postage prepaid to Plaintiff, *pro se*: William Paul Shaver, FCI Fort Worth, P.O. Box 15330, Ft. Worth, Texas 76119.

s/ Amber M. Rogers

Amber M. Rogers
Assistant United States Attorney